

9-30-07

*[Signature]*  
**BRINKS  
HOFER  
GILSON  
& LIONE**

"Express Mail" mailing label number: EV 924790170 US

Date of Deposit: March 29, 2007

MAR 29 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Appln. of: Noaya Hasegawa et al.

Appln. No.: 10/655,942

Filed: September 5, 2003

For: Tunneling Magnetoresistive Element and  
Method of Manufacturing the Same

Attorney Docket No: 9281/4591

Examiner: Paul Kim

Group Art Unit: 3729

Client Ref. No. N US 03512

Mail Stop Patent Ext.

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Sir:

**Attached are:**

- Transmittal Letter (in duplicate); Request for Reconsideration of Patent Term Adjustment (in duplicate) with attached Appendix A and B.
- Return Receipt Postcard

**Fee calculation:**

- No additional fee is required.
- Small Entity.
- An extension fee in an amount of \$ \_\_\_\_\_ for a \_\_\_\_\_ -month extension of time under 37 C.F.R. § 1.136(a).
- A petition or processing fee in an amount of \$ \_\_\_\_\_ under 37 C.F.R. § 1.17(\_\_\_\_\_\_).
- An additional filing fee has been calculated as shown below:

	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Small Entity		Not a Small Entity	
					Rate	Add'l Fee	or	Rate
Total		Minus			x \$25=			x \$50=
Indep.		Minus			x 100=			x \$200=
First Presentation of Multiple Dep. Claim					+\$180=			+\$360=
					Total	\$	Total	\$

**Fee payment:**

- A check in the amount of \$ \_\_\_\_\_ for the Petition fee is enclosed.
- Please charge Deposit Account No. 23-1925 in the amount of \$200.00.
- Payment by credit card in the amount of \$ \_\_\_\_\_ (Form PTO-2038 is attached).
- The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Date

3/29/07

Respectfully submitted,

Gustavo Siller, Jr. (Reg. No. 32,305)



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### REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Mail Stop Patent Ext  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Patent Application Information Retrieval (PAIR) system indicates a patent term adjustment that was calculated by the U.S. Patent office pursuant to 37 C.F.R. 1.701 of 381 days. A copy of the Patent Application Information Retrieval (PAIR) system Patent Term adjustment history (PTA) is attached as Appendix A.

Applicant's Attorney believes that the patent term adjustment should be 549 days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(b). Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The present application is not subject to a terminal disclaimer. In addition, there were no circumstances during the prosecution of the application resulting in the notice of allowance that constitute a failure of the Applicant to engage in reasonable efforts to conclude processing or examination of the present application as set forth in 37 C.F.R. §1.704.

4/27/2007 TBESHAWH2 00000053 231925  
01 FC:1455 200.00 DA 10655942

### **Period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1)**

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) is the number of days in the period beginning on the day ("the 14 month date") after the date that is fourteen months after the date on which the application was filed pursuant to 35 U.S.C. § 111(a), or fulfilled the requirements pursuant to 35 U.S.C. § 371, and ending on the date of mailing or either an action pursuant to 35 U.S.C. § 132 or a notice of allowance pursuant to 35 U.S.C. § 151, whichever comes first.

The PTO calculation of the period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) indicates, as shown by the PAIR PTA adjustment history, an adjustment of 381 days (14 months after the filing of the application on September 5, 2003 to the mailing of the first Office Action on November 21, 2005).

### **Period of adjustment pursuant to 37 C.F.R. § 1.703(b)**

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a) or fulfilled the requirements pursuant to 35 U.S.C. § 371.

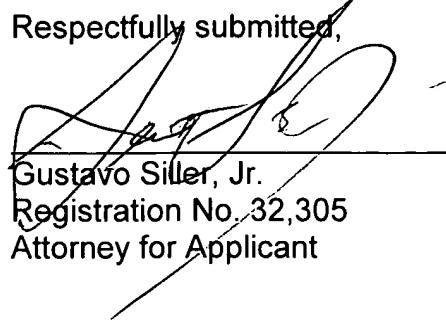
The present application was filed on September 5, 2003. The 3 year date specified in 37 C.F.R. § 1.703(b) is September 5, 2006. The PTO issued a patent for the present application on February 20, 2007. The Issue Notification is attached as Appendix B. The difference between the 3 year date and the date of issue of the patent is 168 days.

### **Total Patent Term Adjustment**

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be at least 381 days + 168 days = 549 days.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark Office to reconsider, and make revisions to the PAIR system Patent Term Adjustment

History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned attorney for the Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,  
  
Gustavo Siller, Jr.  
Registration No. 32,305  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

# APPENDIX

## A

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**Patent Term Adjustments**


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Patent Term Adjustment (PTA) for Application Number: 10/655,942

Filing or 371(c) Date:	09-05-2003	USPTO Delay (PTO) Delay (days):	381
Issue Date of Patent:	null	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	0
Post-Issue Petitions (days):	+0	Total PTA (days):	381
USPTO Adjustment(days):	+0	Explanation Of Calculations	

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**Patent Term Adjustment History**


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Date	Contents Description	PTO(Days)	APPL(Days)
10-13-2006	Mail Notice of Allowance		
10-12-2006	Notice of Allowance Data Verification Completed		
10-12-2006	Case Docketed to Examiner in GAU		
09-28-2006	Date Forwarded to Examiner		
09-27-2006	Response after Ex Parte Quayle Action		
08-28-2006	Mail Ex Parte Quayle Action (PTOL - 326)		
08-21-2006	Ex Parte Quayle Action		
06-09-2006	Date Forwarded to Examiner		
06-01-2006	Response after Non-Final Action		
03-01-2006	Mail Non-Final Rejection		
02-17-2006	Examiner Interview Summary Record (PTOL - 413)		
02-27-2006	Non-Final Rejection		
09-23-2004	Information Disclosure Statement considered		
09-05-2003	Information Disclosure Statement considered		
02-10-2006	Date Forwarded to Examiner		
01-25-2006	Response to Election / Restriction Filed		
01-25-2006	Request for Extension of Time - Granted		
11-21-2005	Mail Restriction Requirement	381	
11-16-2005	Requirement for Restriction / Election		↑
11-03-2005	Case Docketed to Examiner in GAU		↑
10-19-2005	Case Docketed to Examiner in GAU		↑
10-16-2005	IFW TSS Processing by Tech Center Complete		↑
10-16-2005	Case Docketed to Examiner in GAU		↑
09-05-2003	Preliminary Amendment		↑
09-15-2005	Transfer Inquiry to GAU		↑
09-23-2004	Information Disclosure Statement (IDS) Filed		↑
09-23-2004	Reference capture on IDS		↑
09-05-2003	Information Disclosure Statement (IDS) Filed		↑
09-05-2003	Reference capture on IDS		↑
12-02-2003	Application Return from OIPE		↑
12-02-2003	Application Return TO OIPE		↑
12-02-2003	Application Is Now Complete		↑

11-29-2003	Application Dispatched from OIPE	↑
12-01-2003	Application Is Now Complete	↑
11-19-2003	Cleared by OIPE CSR	↑
11-16-2003	IFW Scan & PACR Auto Security Review	↑
09-05-2003	Initial Exam Team nn	↑

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# **APPENDIX**

## **B**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,942	02/20/2007	7178222	9281-4591	7018

7590                    01/31/2007

Gustavo Siller, Jr.  
Brinks Hofer Gilson & Lione  
P.O. Box 10395  
Chicago, IL 60610

## ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

### Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 378 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Naoya Hasegawa, Niigata-ken, JAPAN;